



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 18-23; FCC 18-20]

Elimination of Obligation to File Broadcast Mid-Term Report (Form 397)

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) proposes to eliminate the rules requiring certain broadcast television and radio stations to file Form 397, the EEO Broadcast Mid-Term Report. This proposal will continue the Commission's efforts to modernize regulations and reduce unnecessary requirements that no longer serve the public interest.

DATES: Comments are due on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**; reply comments are due on or before **[INSERT DATE 90 DAYS AFTER DATE OF PUBLICATIONS IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by MB Docket No. 18–23, by any of the following methods:

- Federal Communications Commission's Web site: [http:// www.fcc.gov/cgb/ecfs/](http://www.fcc.gov/cgb/ecfs/). Follow the instructions for submitting comments.
- Mail: Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- People With Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: FCC504@fcc.gov or phone: (202) 418–0530 or TTY: (202) 418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Jonathan Mark, Jonathan.Mark@fcc.gov, of the Media Bureau, Policy Division, (202) 418-3634. Direct press inquiries to Janice Wise at (202) 418-8165.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM), FCC 18-20, adopted and released on February 22, 2018. The full text of this document is available electronically via the FCC's Electronic Document Management System (EDOCS) Web Site at http://fjallfoss.fcc.gov/edocs_public/ or via the FCC's Electronic Comment Filing System (ECFS) Web Site at <http://fjallfoss.fcc.gov/ecfs2/>. (Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.) This document is also available for public inspection and copying during regular business hours in the FCC Reference Information Center, which is located in Room CY-A257 at FCC Headquarters, 445 12th Street, SW, Washington, DC 20554. The Reference Information Center is open to the public Monday through Thursday from 8:00 a.m. to 4:30 p.m. and Friday from 8:00 a.m. to 11:30 a.m. The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an e-mail to fcc504@fcc.gov or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Synopsis

I. NOTICE OF PROPOSED RULEMAKING

1. In the NPRM, we propose to eliminate the requirement in § 73.2080(f)(2) of the Commission's rules that certain broadcast television and radio stations file the Broadcast Mid-Term Report (Form 397). In response to a Public Notice launching the Commission's Modernization of Media Regulation Initiative, a number of parties have asked the Commission to consider eliminating this reporting obligation because it is unnecessary and unduly burdensome. By proposing to eliminate Form 397, we continue our efforts to modernize our regulations and reduce unnecessary requirements that no

longer serve the public interest.

2. Section 334(b) of the Communications Act of 1934, as amended (the Act), directed the Commission to revise its regulations to require a mid-term review of broadcast stations' employment practices. Although section 334(b) only applies to TV stations, the Commission currently conducts mid-term reviews for both broadcast TV and radio stations. Pursuant to this direction, and as specified in § 73.2080(f)(2), Commission staff reviews the equal employment opportunity (EEO) practices of all broadcast television stations in station employment units¹ with five or more full-time employees, and all radio stations in employment units with eleven or more full-time employees, around the midpoint of broadcasters' eight-year license terms. After completing a mid-term review, staff informs licensees of any necessary improvements in recruitment practices to ensure that they are in compliance with the Commission's EEO rules.

3. To facilitate mid-term reviews, the Commission adopted the current Form 397 in 2002. Stations subject to mid-term reviews must file Form 397 at least four months prior to the four-year anniversary of the station's most recent license expiration date. Form 397 consists of three sections and requires stations to provide information that, with one exception, also is available in stations' public inspection files. First, stations must certify whether they have the requisite number of full-time employees to be subject to a mid-term review. Stations that do not have the requisite number of full-time employees are not required to file Form 397, but may do so if they choose. Second, stations must identify, by name and title, "a particular official with overall responsibility for equal employment opportunity at the station." This question is also asked in Form 396, Broadcast Equal Employment Opportunity Program Report, which must be included in a station's public file.

4. Third, all stations subject to mid-term reviews must attach to Form 397 copies of their two most recent annual EEO public file reports. Separately, pursuant to § 73.2080(c)(6) of the Commission's rules, each broadcast station must place its EEO public file report both in its public inspection file and on

¹ A station employment unit is a station or a group of commonly owned stations in the same market that share at least one employee.

its website, if it has one, on an annual basis.² The report must be retained in the public file until the station's next license renewal is granted.

5. We tentatively conclude that eliminating Form 397 will advance the Commission's goal of reducing unnecessary regulatory burdens without undermining our statutorily-required mid-term reviews of broadcaster compliance with the EEO rules. As mentioned above, nearly all the information in Form 397, such as the name of a station official with responsibility for compliance with the Commission's EEO rules and copies of a station's annual public file reports, is also available in stations' public inspection files. The only piece of information required by Form 397 that is not, to date, available in the public inspection file is whether the station has enough full-time employees to trigger a mid-term review. As discussed below, however, we do not believe that the filing of the Form 397 is the only means available by which to obtain this information. We therefore agree with NAB and other commenters that, in light of the nearly-complete transition to online public inspection files, Form 397 is no longer needed to facilitate implementation of the Commission's mid-term review obligations. We therefore tentatively agree with commenters who assert that requiring broadcasters to file Form 397 has become "redundant and unnecessarily burdensome."

6. We also tentatively conclude that eliminating Form 397 is consistent with section 334 of the Act. As an initial matter, because section 334 applies expressly to "television broadcast station licensees," it does not implicate Commission regulation of radio licensees. Specifically, Section 334(a) only limits changes to certain Commission EEO regulations governing television; it prohibits revisions to EEO rules "in effect on September 1, 1992 (47 CFR 73.2080) as such regulations apply to television broadcast station licensees and permittees" and to the forms "used by such licensees and permittees to report pertinent employment data to the Commission." The legislative history identifies those forms as FCC Forms 395-B and 396. Indeed, as noted above, the Commission originally adopted Form 397 in 2000, eight years after Congress enacted section 334 of the Act. Accordingly, based on the statutory language and legislative history, we tentatively conclude that Form 397 is not subject to the statutory

² We note that under 47 CFR 73.2080(d), stations in small employment units with fewer than five employees are exempt from this requirement.

limitation on revisions found in section 334(a) of the Act.

7. As discussed above, Section 334(b) directed the Commission to revise its regulations to “require a midterm review of television broadcast station licensees’ employment practices” and to “inform such licensees of necessary improvements in recruitment practices identified as a consequence of such review.” However, this provision does not require the Commission to adopt Form 397 and does not prohibit the Commission from revising or eliminating it. Because, among other reasons, the Commission will continue to conduct mid-term reviews of broadcast licensees’ employment practices even if we eliminate Form 397, we tentatively conclude that section 334(b) does not bar the Commission from modifying or eliminating the Form. We also tentatively conclude that section 334(c) does not preclude the Commission from eliminating Form 397. Considered in context, subsection (c) is most reasonably read as an exception to subsection (a)’s limitation prohibiting the Commission from revising the 1992 EEO rules. While subsection (a) prohibits the Commission from revising the 1992 EEO rules, subsection (c) permits the Commission “to make nonsubstantive technical or clerical revisions” to those rules as are “necessary to reflect changes in technology, terminology, or Commission organization.” Because the limitation in (a), by its terms, does not apply to Form 397, neither does the exception to (a) that Congress carved out, as reflected in subsection (c). We seek comment on the tentative conclusions related to these statutory interpretations.

8. We also seek comment on how the Commission should identify which stations are subject to a mid-term review, absent Form 397. Commission staff currently conducts mid-term reviews of stations that self-identify as subject to the mid-term review rule by filing Form 397. NAB proposes two possible solutions to identify stations subject to mid-term review, and we seek comment on these suggestions as well as any other approach that would allow such stations to be identified with the least necessary expenditure of resources by both regulatees and the Commission. NAB’s first proposal is to require all subject stations to indicate whether they are subject to a mid-term review on their annual EEO public file report. We note that this proposal would not provide information in a format that easily could be aggregated by Commission staff and potentially would require staff to manually review each station’s EEO public file reports prior to the mid-term review period to determine which stations are subject to

mid-term review. These reports do not follow a prescribed uniform structure, so this information could appear in different locations and in different formats in each report. Although it appears that the costs of including this information on the annual EEO report would likely be *de minimis*, we seek comment on the scope of any potential costs to licensees. Would this approach constitute an overall reduction in the costs incurred by licensees with respect to mid-term reviews?

9. Alternatively, NAB suggests modifying the online public file database itself to require all stations to indicate whether they are subject to a mid-term review as a prerequisite to filing their annual EEO public file report. If we modify the online public file database to include this information, should we adopt NAB's proposed prerequisite approach, such as by adding questions regarding staff size to each station's public file that must be answered before the station can upload its EEO public file report, or should we make some other change? Any such modification to the online file would impose information technology resource costs on the Commission and new burdens on broadcast licensees. What would be the scope of these costs for licensees? Would this approach constitute an overall reduction in the costs incurred by licensees with respect to mid-term reviews? In proposing alternatives to Form 397, commenters should keep in mind that our goal is to reduce the regulatory burden on regulatees while at the same time minimizing the administrative burden and costs on the Commission in its effort to satisfy the statutory objectives of section 334 of the Act.

10. Additionally, we seek comment on whether we should require stations to designate a point of contact responsible for a station's EEO compliance on a more routine basis, if we eliminate Form 397. As noted above, point-of-contact information will continue to be provided through a station's Form 396. Given that Form 396 is filed only once every eight years, however, should we specify a means for stations to update their EEO points of contact more frequently? For example, should we require this information to be included in a station's annual EEO public file report? Are there other options we should consider, such as requiring this information to be included in a station's online public file? Alternatively, should we conclude that the requirement to include a specific EEO point of contact in Form 396 is sufficient?

11. We also seek input on the relative costs and benefits of Form 397 as a means to facilitate mid-term reviews. We ask that parties explain how any benefits derived from the Form compare with the

costs. Finally, we seek comment on the FCC's track record on EEO enforcement and how the agency can make improvements to EEO compliance and enforcement. Beyond the mid-term review, would elimination of Form 397 impact the FCC's ability to ensure compliance and enforcement of EEO rules, and if so, how? Similarly, if Form 397 were eliminated, what other mechanisms will the FCC have to monitor and enforce its EEO rules?

II. PROCEDURAL MATTERS

A. Initial Paperwork Reduction Act Analysis

12. This document contains new information collection requirements. It seeks comment on whether and how Commission rules would need to be revised if Form 397 is eliminated, so that Commission staff would be able to determine which broadcast stations are subject to the mid-term review of employment practices, and the name and title of station employees responsible for EEO compliance. The Commission, as part of its continuing efforts to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, we seek specific comment on how we might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

B. Initial Regulatory Flexibility Analysis

13. As required by the Regulatory Flexibility Act of 1980, as amended, (RFA) the Commission has prepared this Initial Regulatory Flexibility Act Analysis (IRFA) concerning the possible significant economic impact on small entities by the rules proposed in this Notice of Proposed Rulemaking (NPRM). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided on the first page of the NPRM. Pursuant to the requirements established in 5 USC 603(a), The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the NPRM and IRFA (or summaries thereof) will be published in the Federal Register.

14. Need for, and Objectives of, the Report and Order. The proposed rule changes stem from a Public Notice issued by the Commission in May 2017 launching an initiative to modernize the Commission's media regulations. Numerous parties in that proceeding argued for elimination of the recordkeeping requirement at issue as redundant and unnecessary. The NPRM proposes to eliminate a provision of the Commission's rules that obligate certain broadcasters to file a Broadcast Mid-Term Report documenting their compliance with the Commission's EEO requirements, without eliminating the mid-term review of employment practices.

15. Specifically, the NPRM proposes to eliminate the requirement in 47 CFR 73.2080(f)(2) that broadcast television stations in station employment units (SEUs) with five or more full-time employees, and radio stations in SEUs with 11 or more full-time employees, file Form 397 four months prior to the date four years after their most recent license expiration date. This proposal is intended to reduce outdated regulations and unnecessary regulatory burdens that can impede competition and innovation in media markets. The NPRM also seeks comment on whether it will be necessary to make other changes to § 73.2080 or the rules governing the online public file in order for Commission staff to determine which stations are subject to the statutory mid-term review of employment practices and the name and title of station employees responsible for EEO compliance.

16. Legal Basis. The proposed action is authorized pursuant to sections 1, 4(i), 4(j), and 334 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), and 334.

17. Description and Estimates of the Number of Small Entities to Which the Proposed Rules Will Apply. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.³ A small business concern

³ 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one

is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.⁴ The rules proposed herein will directly affect certain small television and radio broadcast stations, and cable entities. Below is a description of these small entities, as well as an estimate of the number of such small entities, where feasible.

18. Television Broadcasting. This Economic Census category “comprises establishments primarily engaged in broadcasting images together with sound.” These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for such businesses: those having \$38.5 million or less in annual receipts. The 2012 Economic Census reports that 751 firms in this category operated in that year. Of that number, 656 had annual receipts of \$25,000,000 or less. Based on this data, we estimate that the majority of commercial television broadcasters are small entities under the applicable SBA size standard.

19. In addition, the Commission has estimated the number of licensed commercial television stations to be 1,384. Of this total, 1,264 stations had revenues of \$38.5 million or less, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on February 24, 2017. Such entities, therefore, qualify as small entities under the SBA definition. The Commission has estimated the number of licensed noncommercial educational (NCE) television stations to be 394. The Commission, however, does not compile and does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

20. We note, however, that in assessing whether a business concern qualifies as “small”

or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.” 5 U.S.C. 601(3).

⁴ 15 U.S.C. 632. Application of the statutory criteria of dominance in its field of operation and independence are sometimes difficult to apply in the context of broadcast television. Accordingly, the Commission’s statistical account of television stations may be over-inclusive.

under the above definition, business (control) affiliations⁵ must be included. Our estimate, therefore likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, another element of the definition of “small business” requires that an entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television broadcast station is dominant in its field of operation. Accordingly, the estimate of small businesses to which the proposed rules would apply does not exclude any television station from the definition of a small business on this basis and therefore could be over-inclusive.

21. There are also 417 Class A stations. Given the nature of this service, we will presume that all 417 of these stations qualify as small entities under the above SBA small business size standard.

22. Radio Stations. This economic Census category “comprises establishments primarily engaged in broadcasting aural programs by radio to the public.” The SBA has created the following small business size standard for this category: those having \$38.5 million or less in annual receipts. Census data for 2012 shows that 2,849 firms in this category operated in that year. Of this number, 2,806 firms had annual receipts of less than \$25,000,000. Because the Census has no additional classifications that could serve as a basis for determining the number of stations whose receipts exceeded \$38.5 million in that year, we conclude that the majority of television broadcast stations were small under the applicable SBA size standard.

23. Apart from the U.S. Census, the Commission has estimated the number of licensed commercial AM radio stations to be 4,486 stations and the number of commercial FM radio stations to be 6,755, for a total number of 11,241. Of this total, 9,898 stations had revenues of \$38.5 million or less, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) in October 2014. In addition, the Commission has estimated the number of noncommercial educational FM radio stations to be 4,111. NCE stations are non-profit, and therefore considered to be

⁵ “[Business concerns] are affiliates of each other when one concern controls or has the power to control the other or a third party or parties controls or has the power to control both.” 13 CFR 21.103(a)(1).

small entities.⁶ Therefore, we estimate that the majority of radio broadcast stations are small entities.

24. We note again, however, that in assessing whether a business concern qualifies as “small” under the above definition, business (control) affiliations⁷ must be included. Because we do not include or aggregate revenues from affiliated companies in determining whether an entity meets the applicable revenue threshold, our estimate of the number of small radio broadcast stations affected is likely overstated. In addition, as noted above, one element of the definition of “small business” is that an entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific radio broadcast station is dominant in its field of operation. Accordingly, our estimate of small radio stations potentially affected by the proposed rules includes those that could be dominant in their field of operation. For this reason, such estimate likely is over-inclusive.

25. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements. In this section, we identify the reporting, recordkeeping, and other compliance requirements proposed in the NPRM and consider whether small entities are affected disproportionately by any such requirements.

26. Reporting Requirements. The NPRM does not propose to adopt reporting requirements.

27. Recordkeeping Requirements. The NPRM does not propose to adopt recordkeeping requirements.

28. Other Compliance Requirements. The NPRM does not propose to adopt other compliance requirements. It does seek comment on whether and how Commission rules would need to be revised if Form 397 is eliminated, so that Commission staff would be able to determine which broadcast stations are subject to the mid-term review of employment practices and the name and title of station employees responsible for EEO compliance.

29. The proposed rule revisions, if adopted, will reduce the compliance burden on all affected Commission regulatees, including small entities, by eliminating the requirement to file Form 397. No

⁶ 5 U.S.C. 601(4), (6).

⁷ “[Business concerns] are affiliates of each other when one concern controls or has the power to control the other or a third party or parties controls or has the power to control both.”

party in the proceeding has opposed the proposals set forth in the NPRM. We thus find it reasonable to conclude that the benefits of eliminating the rules at issue will outweigh any costs.

30. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.⁸

31. The NPRM proposes to eliminate the obligation, imposed on certain broadcasters, to file a Broadcast Mid-Term Report on employment practices. Eliminating this requirement is intended to modernize the Commission's regulations and reduce costs and recordkeeping burdens for affected entities, including small entities. Under the current rules, affected entities must expend time and resources gathering and filing consolidated information that is largely already otherwise supplied to the Commission. As noted, the proposed rule revisions are unopposed in the media modernization docket. Thus, we anticipate that affected small entities only stand to benefit from such revisions, if adopted.

32. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rule. None.

C. Ex Parte Rules

33. Permit-But-Disclose. This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex*

⁸ 5 U.S.C. 603(c)(1)-(c)(4).

parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

D. Filing Requirements

34. Comments and Replies. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>
- **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's

Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington, DC 20554.

35. Availability of Documents. Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, S.W., CY-A257, Washington, D.C. 20554. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

36. People with Disabilities. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

III. ORDERING CLAUSES

37. **IT IS ORDERED** that, pursuant to the authority found in sections 1, 4(i), and 4(j) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), and 154(j), this Report and Order **IS HEREBY ADOPTED**.

38. **IT IS FURTHER ORDERED** that, pursuant to the authority found in sections 1, 4(i), and 4(j) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), and 154(j), the Commission's rules **ARE AMENDED** as set forth in Rules Appendix A of the NPRM, effective as of the

date of publication of a summary in the Federal Register.⁹

39. **IT IS FURTHER ORDERED** that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, **SHALL SEND** a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

40. **IT IS FURTHER ORDERED** that the Commission **SHALL SEND** a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

41. **IT IS FURTHER ORDERED** that, should no petitions for reconsideration or petitions for judicial review be timely filed, MB Docket No. 17-231 shall be TERMINATED and its docket closed.

List of Subjects in 47 CFR Part 73

Equal employment opportunity, Radio, Reporting and recordkeeping requirements, Television.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch,
Secretary,
Office of the Secretary.

⁹ These rules serve to "reliev[e] a restriction." 5 U.S.C. 553(d)(1).

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 309, 310, 334, 336, and 339.

2. Amend § 73.2080 by revising paragraph (f)(2) to read as follows:

§ 73.2080 Equal Employment Opportunities (EEO).

* * * * *

(f) * * *

(2) The Commission will conduct a mid-term review of the employment practices of each broadcast television station that is part of an employment unit of five or more full-time employees and each radio station that is part of an employment unit of 11 or more full-time employees four years following the station's most recent license expiration date as specified in §73.1020. If a broadcast licensee acquires a station pursuant to FCC Form 314 or FCC Form 315 during the period that is to form the basis for the mid-term review, that review will cover the licensee's EEO recruitment activity during the period starting with the date it acquired the station.

* * * * *

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